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Report of the United Nations High Commissioner for Human Rights

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 48/141 of 20 December 1993. It provides an overview of my activities and the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) since November 2000. It should be read in conjunction with my report to the Commission on Human Rights at its fifty-seventh session (E/CN.4/2001/16) and to the Economic and Social Council at its substantive session of 2001 (E/2001/64).

2. I visited New York from 18 to 20 September 2001 a few days after the devastating terrorist attacks on the United States of America on 11 September. I witnessed the shocking scale of these horrific acts in terms of human lives and destruction. A human rights approach to the events of 11 September and their aftermath must begin with the victims and their right to justice. They have lost the foremost right, the right to life. Over 6,000 citizens of the United States and civilians of other nationalities have been killed. Those who carried out this carnage by hijacking civilian aircraft, taking over their controls and crashing them into highly populated buildings intended to cause the maximum loss of life. I consider that these crimes constitute crimes against humanity. The victims and their relatives have the right to see that those responsible for these international crimes are rendered accountable under due process of law and punished. World security and stability is now more than ever dependent on the serious efforts to advance equality, tolerance, respect for human dignity and the rule of law to every corner of the globe.

II. Human rights dialogue

3. The General Assembly, by its resolution 48/141, entrusted the United Nations High Commissioner for Human Rights with the responsibility for engaging in dialogue with all Governments in order to secure respect for all human rights. In carrying out this mandate, I have developed close cooperation with several Governments. I have submitted separate reports to the fifty-sixth session of the General Assembly on the situation of human rights in East Timor (E/CN.4/2001/37 and Corr.1) and in Sierra Leone (E/CN.4/2001/35). In this context, I would also like to draw the attention of the Assembly to my report on the human rights situation in Colombia (E/CN.4/2001/15) and the report on my visit to the occupied Palestinian territories, Israel, Egypt and Jordan, from 8 to 16 November 2000 (E/CN.4/2001/114), which I presented at the fifty-seventh session of the Commission on Human Rights.

4. Below is an overview of my dialogue regarding several other situations concerning which the Office has taken steps to assist in the promotion and protection of human rights.

A. Afghanistan

5. On 24 September 2001, I joined with heads of other United Nations agencies in urging a world wounded by the horrific and deplorable terrorist attacks of 11 September to be mindful of the principles of international humanitarian law and to take all measures to protect the civilian populations, especially the millions of children and women in Afghanistan.

6. The United Nations agencies stress that a humanitarian crisis of stunning proportions is currently unfolding in Afghanistan. As of 24 September 2001, more than five million people require humanitarian assistance to survive, including more than one million people who have been displaced from their homes; tens of thousands of people are now on the move in search of safety and assistance and the Office of the United Nations High Commissioner for Refugees (UNHCR) believes that many more are unable to move; already, 3.8 million Afghans rely on United Nations food aid to survive. By 1 November, the World Food Programme (WFP) estimates that 5.5 million people will depend on its food shipments; nearly 20 per cent of those in need are children under the age of five, many of whom, according to the United Nations Children's Fund (UNICEF) are already struggling to survive.

7. The human rights situation in Afghanistan has preoccupied me before the current crisis. The past 12 months have again demonstrated widespread and systematic abuse of human rights and international humanitarian law by all the warring Afghan parties. Civilians are the primary victims of the fighting and are simultaneously subjected to discriminatory policies and practices that undermine their ability to exercise the rights to life and security of person, rights to food, health, shelter and education as well as the means to provide for themselves and their families. The Taliban

authorities have imposed regulations that severely restrict the ability of both the United Nations and its partners to carry out work to alleviate the suffering caused, in part, by such abuses.

8. Individuals, in particular those living in front-line areas, continue to be subjected to summary executions, indiscriminate use of landmines, bombing in urban areas, arbitrary detention, the deliberate burning of settlements and the forced and compulsory recruitment of children as combatants. In January 2001, Taliban forces allegedly massacred approximately 130 men they had rounded up after taking the town of Yakawlang, in Bamiyan province. I am considering the modalities of addressing the de facto impunity enjoyed by all perpetrators of gross violations of human rights in Afghanistan. The Special Rapporteur of the Commission on Human Rights on the human rights situation in Afghanistan tackled the issue of accountability of perpetrators in his reports to the fifty-seventh session of the Commission on Human Rights (E/CN.4/2001/43 and Add.1).

9. The war, human rights violations and growing levels of vulnerability that are exacerbated by the drought contribute to the high numbers of internally displaced and refugees as well as to destitution in the cities and villages. There is increasing hostility to Afghan refugees in neighbouring countries, which has resulted, inter alia, in the forced return of Afghans seeking asylum. Such returnees face extreme hardship because of discriminatory treatment from the Taliban authorities. The Special Rapporteur reports that 700,000 Afghans have had to leave their homes because of drought, war or a combination of the two factors during the six months between September 2000 and March 2001. Significant new refugee flows into the Islamic Republic of Iran have been reported and some 170,000 refugees have crossed into Pakistan since mid-2000. The Special Rapporteur stresses that three consecutive years of severe drought have had a devastating impact on the agriculture and economy of the country. Families are selling their animals, eating their seed and watching as their fruit trees wither and die.

10. Women and girls are subjected to officially sanctioned discrimination in Taliban-held areas. Women, who are often the primary carers for their families, frequently resort to begging because of Taliban-imposed restrictions, in particular on their right to work.

11. OHCHR is liaising closely with the Special Rapporteur on the situation of human rights in Afghanistan, the Personal Representative of the Secretary-General and the United Nations Humanitarian Coordinator to develop measures to address these concerns. In this regard, the Office is working with the United Nations agencies and programmes active in Afghanistan to strengthen the capacity of the United Nations Afghanistan Country Team and its partners in the promotion and protection of human rights, within the context of the Strategic Framework.

B. Democratic Republic of the Congo

12. The Democratic Republic of the Congo has been in a process of change since the beginning of the tenure of President Joseph Kabila, who in January 2001, declared a moratorium on the death penalty. President Kabila also announced an inter-Congolese dialogue, in order to put an end to the internal conflict, and the organization of a national conference to develop a human rights agenda. The national conference was held in June 2001 in Kinshasa. The conference was attended by 385 government officials and members of the civil society, including individuals from the rebel-controlled areas of Maniema, North Kivu, South Kivu and Province Orientale. Representatives of public institutions, political parties and observers from the international community also participated. The preparation of the Conference was supported by the Office of the High Commissioner, the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) and other international partners.

13. The conference made a number of significant recommendations, touching upon human rights aspects of a wide range of areas, including: administration of justice, defence forces and law enforcement; human rights education; promotion and protection of civil and political rights; promotion and protection of economic, social and cultural rights; peace and the right of the people of the Democratic Republic of the Congo to sovereignty over their own resources; rights of vulnerable groups; and structures and mechanisms for the promotion and protection of human rights.

14. The ongoing conflict, involving six national armies and up to 21 irregular groups, has, however, had a major impact on the human rights situation in the country. In the Government-controlled areas, the Office

of the High Commissioner received reports of summary or extrajudicial executions, prolonged arbitrary detention and torture. I am particularly concerned about the trial of 80 individuals before the military court in Likasi, Katanga Province, which started during the last week of August and ended on 13 September 2001. According to reports, most of the defendants were held incommunicado and were subjected to torture. The trial took place in Likasi, located about 2,000 kilometres from Kinshasa, although the crimes were allegedly committed in Kinshasa. This had apparently affected the defendants' ability to call witnesses. The head of the Human Rights Field Operation in the Democratic Republic of the Congo attended the trial proceedings as an observer together with another staff member from that office. Credible sources reported that eight individuals were sentenced to death.

15. In the rebel-held areas, general insecurity persists and OHCHR received credible reports of arbitrary detention, systematic violations of the right to movement, free expression, association and fair trial and torture, sometimes leading to the death of the victims.

16. I am working with the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Democratic Republic of the Congo. Since 10 December 1996, the Office has been present on the ground, currently in Kinshasa and Goma, which is under rebel control. Its mandate covers monitoring violations of human rights and strengthening national capacities to redress them. It has carried out a number of training activities for the Ministry for Human Rights, Justice, Social Affairs and Family, as well as the representatives of the civil society, including universities, the media and non-governmental human rights organizations. Special programmes aimed at improving conditions in prisons and other detention centres, as well as the monitoring of trials have also been carried out. In the eastern part of the country, in the rebel-held area, OHCHR has recently organized a training course for magistrates and lawyers as a follow-up to a similar one organized in Kinshasa in December 2000. In addition, a radio programme, broadcasting information on human rights education and a culture of peace, began operations in June.

17. OHCHR closely cooperates with MONUC and its human rights component. On 3 October 2000, both partners signed a paper on the "Terms of reference of cooperation", which provides an important framework for cooperation, mutual support and the coordination of activities.

C. The former Yugoslav Republic of Macedonia

18. Since the outbreak of the recent conflict, I have followed the situation in the former Yugoslav Republic of Macedonia with deep concern. OHCHR received disturbing reports on violations of human rights and humanitarian law by both the Macedonian armed forces and the ethnic Albanian armed opposition groups, including the National Liberation Army. I am particularly concerned by the reports of indiscriminate killings of civilians and of disappearances, abductions, torture and ill treatment and the massive displacement of both the ethnic Albanian and Macedonian populations within and outside the country.

19. During the fifty-seventh session of the Commission on Human Rights, in March 2001, I met with the President of the former Yugoslav Republic of Macedonia, Boris Trajkovski, and subsequently wrote to him regarding the situation. With the agreement of the Government, I also sent a representative to the country in September 2001 to consider modalities for cooperation in the area of the promotion and protection of human rights. OHCHR stands ready to provide its contribution to the national and international efforts to establish a lasting peace in the country, based on the respect for human rights and the rule of law.

D. Haiti

20. The situation of human rights in Haiti has been the subject of close scrutiny by the General Assembly and the Commission on Human Rights since 1991. In his last report to the Commission on Human Rights (E/CN.4/2001/106), the former independent expert on the situation of human rights in Haiti highlighted the deterioration of the administration of justice system. He also expressed concern regarding the politicization of the police, arbitrary arrests, prolonged detention without trial and the climate of violence, in particular the deplorable health conditions in the prisons. The independent expert nevertheless noted some progress, including a number of successful measures by the police to combat crime, the trial relating to the events

of Raboteau[1] and efforts by the authorities to reform the legislative and judicial system. The independent expert recommended that OHCHR continue the technical cooperation programme in Haiti, especially with the Office of the Ombudsman, the Judicial School and civil society. The independent expert resigned from his post on 15 March 2001 and the appointment of a successor is currently under way.

21. In a statement by the Chairperson issued on 25 April 2001, the fifty-seventh session of the Commission on Human Rights called upon the Government of Haiti to thoroughly investigate politically motivated crimes, including the assassination of journalist Jean Dominique; to prosecute perpetrators of such crimes in accordance with Haitian law; to institute legal proceedings against perpetrators of human rights violations identified by the National Commission for Truth and Justice; and to ensure the neutrality of the police. The Commission on Human Rights also encouraged the Government of Haiti to take vigorous action to eliminate human rights violations, including illegal arrest and detention; to improve prison conditions; to ensure due process; and, in this regard, to strengthen the Office of the Ombudsman. The Commission on Human Rights also encouraged the Government of Haiti and OHCHR to consider undertaking a programme of technical cooperation.

22. The mandate of the United Nations International Civilian Support Mission in Haiti (MICAH) ended on 6 February 2001. OHCHR is embarking on a new technical cooperation scheme for Haiti to be implemented during the second half of 2001. A phased approach is planned to deliver assistance in terms of providing advisory services to the United Nations Resident Coordinator in Haiti regarding the development of national human rights capacity building and the consolidation of the rule of law. To this end, OHCHR will place a Human Rights Adviser in the office of the United Nations Resident Coordinator in Port au Prince, focusing on technical cooperation with the Office of the Ombudsman, the Judicial School and civil society.

E. Indonesia

23. In April 2000, in response to a request from the Government of Indonesia addressed to the Secretary-General, OHCHR developed a programme of technical cooperation to enhance the capacity in the area of the administration of justice to prosecute human rights violations. During the first phase of its implementation, OHCHR provided technical advice to the office of the Attorney General regarding the draft Law on Human Rights Courts. The law was adopted on 6 November 2000. The further implementation of the OHCHR programme has unfortunately encountered difficulties owing to the delay in the appointment of judges and prosecutors for the human rights courts and the limitations of the jurisdiction of the Ad Hoc Court, which is mandated to deal with the human rights violations committed in the context of the September 1999 popular vote in East Timor as envisaged by the November 2000 law.

24. The Law on Human Rights Courts provided for the establishment of ad hoc courts to hear trials for past violations and the establishment of regular courts to hear trials for violations that took place after the coming into effect of the Law. Ad hoc judges and prosecutors were to be appointed to participate, inter alia, in the trials of the East Timor-related violations. The courts will have the task of applying both Indonesian criminal law and international criminal law, drawn from international human rights law at both treaty and customary law levels.

25. On 23 April 2001, Presidential decree 53 limited the jurisdictional powers of the Ad Hoc Court to the human rights violations that occurred in East Timor after August 1999. On 1 August 2001, the new Indonesian Government enacted Presidential decree 96, amending decree 53 and limiting the jurisdiction of the Ad Hoc Court to human rights violations that occurred in the months of April and September 1999 in Dili, Liquica and Suai. Thus, the revised mandate of the Ad Hoc Court includes only those cases that occurred in 3 of the 13 districts during 2 of 8 pre-ballot months. I have contacted the Indonesian authorities with a view to ensuring that they effectively address the issue of impunity in the context of the events in East Timor in 1999, thus enabling OHCHR to carry out the aforementioned technical cooperation programme as previously agreed upon with the Government.

F. Republic of Chechnya of the Russian Federation

26. At its fifty-seventh session, the Commission on Human Rights adopted resolution 2001/24 on the

situation in the Republic of Chechnya of the Russian Federation. The resolution requested the United Nations High Commissioner for Human Rights to report on its implementation to the Commission at its fifty-eighth session and to keep the General Assembly informed of further developments as appropriate. I have continued my dialogue with the Government of the Russian Federation. Contacts have also been maintained with regional and humanitarian organizations on the same subject.

27. The Commission called upon all parties to the conflict to take immediate steps to halt the ongoing fighting. It strongly condemned the continued use of disproportionate and indiscriminate force by Russian forces, federal servicemen and State agents, including attacks against civilians and other breaches of international !aw as well as serious violations of human rights, such as forced disappearances, extrajudicial, summary and arbitrary executions, torture and other inhuman and degrading treatment, and called upon the Government to comply with its international human rights and humanitarian law obligations in its operations against Chechen fighters and to take all measures to protect the civilian population. The resolution also strongly condemned all terrorist activities and attacks as well as breaches of international humanitarian law perpetrated by Chechen fighters, such as hostage taking, torture and indiscriminate use of land mines, booby traps and other explosive devices aimed at causing widespread civilian casualties and called for the immediate release of all hostages. On 21 April 2001, the Russian Ministry of Foreign Affairs stated that it did not consider itself bound by the Commission's resolution, which it viewed as "unobjective and unbalanced".

28. On 7 May 2001, the Minister for Foreign Affairs of the Russian Federation, Igor S. Ivanov, informed me of alleged acts of violence committed by Chechnya fighters, in particular against teachers, religious activists, representatives of local administration and the Russian-speaking population. On 3 July 2001, the Russian Government informed me that the federal authorities continue to undertake comprehensive efforts aimed at a political solution of the crisis in the Chechen Republic and at normalizing the life of the population. It was stressed that this had to do with the protection of the rights of all the inhabitants of the Republic and the re-establishment of relevant State and public institutions.

29. The Government also stressed that it would be difficult to guarantee a stabilization of the situation over time without a proper investigation of all human rights violations. Reference was made to the statement by the President of the Russian Federation, Vladimir Putin, in an interview with the United States mass media, in which he said, "We are convinced that every person who has violated Russian laws should be brought to justice. This concerns both our military and civilians."

30. The information provided by the Russian Government referred in this context to the second round of hearings, held on 4 June 2001 (previous hearings were held in September 2000), in the State Duma of the Federal Assembly of the Russian Federation on the issue of those missing in action. The participants included members of the State Duma and the Government, representatives of the Council of Europe and Russian and international non-governmental organizations (NGOs) working in the field of human rights.

31. The Commission on Human Rights noted the actions carried out by the Office of Vladimir Kalamanov, the Special Representative of the President of the Russian Federation for Human and Civil Rights and Freedoms in the Chechen Republic, in collaboration with experts from the Council of Europe, through its processing of human rights complaints. In view of the available information, however, there is as yet no adequate response to the call of the Commission on Human Rights for an effective addressing of the issue of impunity in the context of alleged violations of human rights and breaches of international humanitarian law committed in the Republic of Chechnya of the Russian Federation. OHCHR has not received information that a national independent commission of inquiry, as called for by the Commission on Human Rights, has been established, nor that the pace of investigation of alleged serious violations of human rights and international humanitarian law has been considerably accelerated. Recently, on 28 June 2001, the Secretary-General of the Council of Europe, in a speech to the Parliamentary Assembly of the Council of Europe, negatively assessed the follow-up carried out by prosecutors to the complaints against federal forces. The Russian Federation General Military Prosecution Service called this criticism "not constructive". On 12 July, the President of the Council of Europe Parliamentary

Assembly issued a statement regarding the deteriorating human rights situation in Chechnya and the deplorable lack of willingness to properly investigate allegations of past abuse. This statement followed the operations in the Chechen towns of Assinovskaya and Sernovodsk carried out by the Russian armed forces.

32. The Commission on Human Rights welcomed the commitment of the Government of the Russian Federation to cooperate with its special mechanisms. On 28 July 2001, the Special Rapporteur of the Commission on violence against women, its causes and consequences, accepted the Government's particular invitation to her to carry out a mission. The Special Rapporteur had not received a positive response to a previous request for a joint mission with the Commission's Special Rapporteur on Torture. She intends to start her mission in October 2001, although discussions concerning the exact timing of the mission are ongoing. This is also the case regarding the mission of the Special Representative of the Secretary-General for Children and Armed Conflict, who has received an invitation from the Government to visit the Russian Federation and the North Caucasus region. The Commission on Human Rights expressed concern, however, that three other representatives (the Secretary-General's Representative for internally displaced persons, the Special Rapporteur of the Commission on Human Rights on extrajudicial, summary or arbitrary executions and the Special Rapporteur of the Commission on torture) had not yet received answers to their requests for invitations and urged the Government to give favourable consideration to this question as a matter of priority.

33. On 10 July 2001, the European Committee for the Prevention of Torture issued a public statement concerning the Chernokozovo detention facility in the Republic of Chechnya of the Russian Federation. The European Committee for the Prevention of Torture stated that, according to the information gathered, a considerable number of persons deprived of their liberty in the Republic of Chechnya of the Russian Federation since the outset of the conflict had been physically ill-treated. It also noted that others who knew about such offences were reluctant to file complaints to the authorities because of a fear of reprisal at local level. The European Committee for the Prevention of Torture observed that the information gathered did not indicate that the authorities had any intention of organizing a thorough inquiry into many apparent cases of ill-treatment at the Chernokozovo facility during the period December 1999 to early February 2000.

34. In mid-June, the Chairman-in-Office of the Organization for Security and Cooperation in Europe (OSCE) and the Director of the Bureau for Democratic Institutions and Human Rights of OSCE visited Chechnya on the occasion of the official inauguration of the OSCE Assistance Group, which took place in Znamenskoye on 15 June. The Chairman-in-Office affirmed the readiness of the Assistance Group to facilitate a political settlement of the crisis. It is to be recalled that the Commission on Human Rights called upon the Government to ensure the return of the Assistance Group and underlined that a political solution to the conflict is essential.

35. The Commission on Human Rights urged the Russian Federation to take all necessary measures to ensure the protection of the internally displaced persons. In June 2001, the United Nations office in the Russian Federation issued a report on Northern Caucasus humanitarian action. Some 330,000 internally displaced persons and 690,000 residents in the Republic of Chechnya and the Republic of Ingushetia in the Russian Federation continue to be affected by the humanitarian consequences of the events in the northern Caucasus. It also stated that there has been little or no return of refugees from Ingushetia to Chechnya (nor of internally displaced persons in Chechnya to their place of origin) in the first half of 2001. The report links it to the continuing instability of the security environment inside Chechnya. However, on 20 June, the Russian Minister for coordination of social and economic development in Chechnya stated that, by winter, all internally displaced persons could be returned to Chechnya. Those returning would be protected by the Ministry of Interior Units.

36. The Commission welcomed the adoption of a comprehensive programme for the economic and social reconstruction of the Republic of Chechnya of the Russian Federation. The Russian Government informed me of the particular attention paid to protecting the rights of the child in the Chechen Republic, as well as of organizing rest and rehabilitation of children. Approximately 30,000 children from the Republic were to be sent during the summer to rest and rehabilitation centres in Russia. In June, more than 300 schools were

already functioning in Chechnya and another six secondary schools were to be constructed before the beginning of the new school year.

37. The Commission on Human Rights urged the Government of the Russian Federation to ensure international, regional and national humanitarian organizations free, unimpeded and secure access to the Republic of Chechnya and neighbouring republics of the Russian Federation and to facilitate their activities, including, the establishment of a UHF communications network in Chechnya. United Nations agencies reported in June that the beneficiaries of their humanitarian assistance had reached 205,000 people in the field of education and 770,000 in the water and sanitation areas. The International Committee of the Red Cross (ICRC) reports continued cooperation with the Russian authorities regarding access to places of detention.

38. In its message of beginning of July, the Russian Government expressed appreciation to OHCHR for its offer to provide technical cooperation addressing some specific needs in Chechnya. I was informed that our proposals had been forwarded to the relevant Ministries and would be examined thoroughly.

III. The challenges ahead

39. This year has been a stimulating one for OHCHR. Old and well-known human rights challenges were combined with new ones. The right to equality and efforts to combat discrimination were among the primary themes that characterized the work of OHCHR during 2001, particularly in light of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which took place in Durban, South Africa, from 31 August to 7 September 2001. The significance of the World Conference is now even greater. As the world is shaping its reaction following the terrorist attacks on the United States, the collective resolution taken in Durban to enhance the appreciation for diversity and the value of respect now have a stronger meaning.

40. The complex reality of our interdependent world imposes itself on the human rights agenda. The section below provides an overview of how OHCHR is addressing questions such as human rights and conflict, the rights of indigenous peoples, the human rights approach to HIV/AIDS, human rights, development and poverty reduction, trafficking in human beings, corporate responsibility and human rights, human rights and bioethics, as well as enhancing the rights of the child, particularly in light of the United Nations General Assembly special session on children.

A. World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and its follow-up

41. After nine days of negotiations that were frequently intensive and often difficult, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance achieved a breakthrough and found common grounds on the key issues before it. There were very strong feelings and significantly different points of view on a number of important issues, but throughout the process there was an equally strong commitment to confronting those differences and arriving at a successful conclusion to the meeting. The fact that the Conference was held in South Africa, a country that experienced many years of apartheid, the most egregious form of institutionalized racism, yet subsequently showed that even the worst forms of racism can be overcome, no doubt provided determination and inspiration to delegations to overcome their differences and come to the historic agreement that was reached.

42. The Declaration and Programme of Action of the Durban Conference provide an important new framework for combating racism, racial discrimination, xenophobia and related intolerance in the post-apartheid era. The documents adopted also elaborate a wide range of concrete and action-oriented measures to be taken at the national, regional and international level in the future. However, words will not be enough. The true measure of success of the Conference will be whether the documents adopted after such laborious negotiations make a real difference in the lives of the victims of racism, racial discrimination, xenophobia and related intolerance. That will be the principal task before the international community in the years to come.

43. Concerning the Middle East, the World Conference called for the end of violence and the swift resumption of peace negotiations, respect for international human rights and humanitarian law and respect for the principle of self-determination and the

end of all suffering, thus allowing Israel and the Palestinians to resume the peace process and to develop and prosper in security and freedom.

44. Expressing concern about the plight of the Palestinian people under foreign occupation, the World Conference, in its Declaration, recognized the inalienable right of the Palestinian people to self-determination and the establishment of an independent State. It also recognized the right to security for all States in the region, including Israel, and called upon all States to support the peace process and bring it to an early conclusion.

45. The Conference also recalled that the Holocaust must never be forgotten.

46. The difficult negotiations on Middle East issues have reaffirmed the main conclusion that I drew from this process, which is that the only path to lasting peace and stability is through peaceful negotiation, calling for courage and responsibility on the part of the leadership of both sides. This conclusion was valid during the World Conference, and remains valid and even more urgent as each day passes now that the Conference is over.

47. On the question of slavery, the Conference agreed on text that acknowledges that slavery and the slave trade, including the trans-Atlantic slave trade, were appalling tragedies in the history of humanity not only because of their abhorrent barbarism but also in terms of their magnitude, organized nature and especially in their negation of the essence of the victims.

48. The World Conference further agreed that: slavery and the slave trade are a crime against humanity and should always have been so, especially the trans-Atlantic slave trade; are among the major sources and manifestations of racism, racial discrimination, xenophobia and related intolerance; and that Africans and people of African descent, Asians and people of Asian descent and indigenous peoples were victims of these acts and continue to be victims of their consequences.

49. The World Conference also recognized that colonialism led to racism, racial discrimination and related intolerance and that Africans and people of African descent, people of Asian descent and indigenous peoples were victims of colonialism and continue to be victims of its consequences. The Conference acknowledged the suffering caused by colonialism and regretted that the effects and persistence of the structures and practices of colonialism have been among the factors contributing to lasting social and economic inequalities in many parts of the world.

50. The language in the adopted text dealing with the past is truly historic. It is the first time that the international community has openly confronted the past in these terms. It is my hope that this will start a healing process, as Archbishop Tutu characterized it, and contribute to the restoration of the dignity and humanity of all those who suffered from slavery and its consequences.

51. The Conference also addressed many other important issues. I welcome language on the international community's commitment to a better integration of developing countries into the global economy. I also welcome the support expressed for the New African Initiative, which proclaims the commitment of African leaders to the African people and the world to work together in rebuilding the continent.

52. The World Conference, through its innovative victims approach, has adopted provisions to help improve the situation of a wide variety of groups and individuals, including Africans and people of African descent, Asians and people of Asian descent, indigenous peoples, migrants, refugees, the Roma and other minorities.

53. The World Conference has underlined the need for better protection of the civil and political rights of victims of racism by, for example, ending discriminatory practices in the administration of justice, calling for legal assistance to victims, ensuring the prosecution of perpetrators of racist acts, ending racial profiling, providing better human rights education, including for public officials and professionals in the performance of their duties, and ensuring that all persons have access to effective and adequate remedies through competent national tribunals and other national institutions. In this regard, the adopted provisions also call for the establishment or, where such institutions already exist, the reinforcement of independent specialized national institutions, in particular to protect the rights and assist victims of racism, racial discrimination, xenophobia and related intolerance.

54. The World Conference also recognized, for the first time in a meeting of the international community, that the victims of discrimination based on race, colour, descent and national or ethnic origin can also suffer multiple or aggravated forms of discrimination on other related grounds such as sex, language, religion, political or other opinion, social origin, property, birth or other status.

55. I also welcome the focus of the World Conference on economic, social and cultural rights. The Conference recognized the importance of poverty eradication, and of combating poverty among those who are victims of racism, racial discrimination, xenophobia and related intolerance. A wide array of measures concretely addressing issues of employment, health, the environment, social services, education and awareness raising, information and communication and the media, including new technologies such as the Internet, have been adopted to better the lives of victims.

56. The role of international financial and development institutions in promoting the economic and social well-being of victims of racism was also highlighted in the documents adopted by the World Conference. It is also significant that the concept of positive action to assist victims has been widely accepted in the texts adopted, thus building upon the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination, which permits special measures to assist individuals or groups who have been victims of racial discrimination.

57. I would also like to draw attention to the fact that the World Conference provided a forum for hearing the voices of victims and for airing new issues. In a sense, Durban was not one but many conferences, each with its own dynamics, difficulties and successes. There was the World Conference of States that negotiated the Durban Declaration and Programme of Action. But there was also the gathering of national human rights institutions, the NGO Forum, the gathering of young people at the Youth Summit and numerous parallel activities on different themes and issues, including: panels organized in cooperation with the United Nations Children's Fund (UNICEF), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Development Fund for Women (UNIFEM), the United Nations Population Fund (UNFPA), the United Nations Research Institute for Social Development (UNRISD), the International Labour Organization (ILO), the Inter-Parliamentary Union (IPU) and the Division for the Advancement of Women; discussion panels organized by OHCHR; and workshops and panels organized by NGOs and others, which provided a means for exchange of experiences and ideas. Topics as diverse as business and discrimination, war-affected children and racism, indigenous issues, minority rights issues, the gender dimension of racism, racism and religious belief, racism and the impact of the media, racism and public policy, discrimination in reproductive health, the slave route and slavery and racism and overcoming the legacy of racism in Africa were put on the table.

58. Perhaps most importantly, there was a great coming together of ordinary peoples, many of whom had terrible stories to tell of suffering and discrimination. Each of these separate gatherings, which overlapped again and again throughout the Conference, contributed to the outcomes from Durban and to the overall richness of the event and will be important to the follow-up.

59. The main message I would like to deliver is that the Conference must be seen as a beginning and not an end. The documents that were agreed upon in Durban will be meaningless unless Governments act on the commitments made in them. Civil society, including NGOs, must also commit themselves to this task and work to ensure that the commitments made in the Declaration and Programme of Action are implemented.

60. I welcome the proposal to create a five-member panel composed of independent eminent experts, one from each region, to be appointed by the Secretary-General on the basis of proposals by the Chairperson of the Commission on Human Rights. I look forward to closely working with this panel to monitor the implementation of the provisions of the Declaration and Programme of Action, taking into account information and views provided by States, human rights treaty bodies, special procedures and other mechanisms of the Commission on Human Rights, as well as information and views provided by international, regional and non-governmental organizations and national human rights institutions. This information will be compiled and analysed in annual reports to the Commission on Human Rights and the General Assembly. The process should be a

constructive and innovative way to achieve the goals of the adopted documents.

61. OHCHR will also be establishing an anti-discrimination unit to combat racism, racial discrimination, xenophobia and related intolerance to promote equality and non-discrimination. This unit will be the cornerstone of follow-up efforts to the Conference, as well as of OHCHR programmes to combat discrimination in the future. In addition to coordinating existing programmes within OHCHR to combat racism, racial discrimination, xenophobia and related intolerance, the unit will focus on those requests and recommendations made for new programmatic initiatives in the provisions of the Programme of Action, consistent with the availability of regular and voluntary budgetary resources. This places an enormous task before the international community, but we are at the beginning an important new initiative to end the scourge of racism once and for all.

62. The World Conference in Durban was, first and foremost, a human rights conference. Before and during the Conference, I emphasized that one of the main aims of Durban should be to agree on values at the beginning of the new century. Despite all of the difficulties and differences that beset the preparatory stages and much of the Conference itself, Durban achieved this aim to an extent that many did not think possible.

B. Human rights in conflict: prevention, protection and combating impunity

63. All States have made legally binding commitments to promote, protect and fulfil human rights. The gulf between human rights norms and their application in practice, however, remains as wide as ever. OHCHR continues to receive worrying allegations of serious human rights violations in all parts of the world, including violations of the right to life, freedom from torture, the right to education, freedom of expression, the right to adequate housing and freedom from extreme poverty. Impunity for such violations remains widespread. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, which took place in Durban, South Africa, has, inter alia, focused attention on how these acts are often at the root of conflict.

64. Unfortunately, the full spectrum of human rights violations is most revealed during conflict. Women, children and the elderly become the voiceless and faceless victims. Civilians are often deliberately targeted for who they are. Indiscriminate weapons, such as landmines, are used, children are recruited or abducted and used in combat, women and girls are raped, sexually abused and enslaved, populations are forcefully displaced or even "ethnically cleansed".

65. I devoted my report to the fifty-sixth session of the Commission on Human Rights to the question of prevention (E/CN.4/2001/12). The Secretary-General has pledged to move the United Nations from a culture of reaction to a culture of prevention. The value of this approach cannot be more evident than in the area of human rights. Successful prevention measures save lives, rights, dignity and resources. OHCHR has contributed to the elaboration of the Secretary-General's approach in this area particularly in the context of his report on prevention of armed conflict to the General Assembly and Security Council of 5 July 2001.[2] States, working with civil society institutions, have the primary responsibility for conflict prevention.[2] However, the United Nations human rights machinery also has a significant role to play. OHCHR and the rest of the United Nations human rights system have embarked on what could be described as operational and structural prevention.[3]

66. As part of operational prevention, I maintain dialogue with Governments on the human rights situation in their countries with the aim of improving the protection of human rights and preventing conflicts. The reports, urgent actions, and visits of the special rapporteurs, independent experts, and representatives of the Commission on Human Rights also alert the international community to serious violations of human rights, which are often at the root cause of conflict. In addition, the observations, conclusions and recommendations of the United Nations treaty bodies often point out structural problems within the system in the human rights area. These early warning systems are under-utilized.

67. It is regrettable that some Governments do not cooperate adequately with the special rapporteurs, independent experts, representatives and working groups of the Commission on Human Rights, failing to answer their queries, respond favourably to their requests to visit or give serious consideration to their conclusions and recommendations. All States should

cooperate with these mechanisms. A practical way to demonstrate the commitment of States to cooperation is through extending standing or open invitations to these individuals and groups allowing them to visit. Such invitations will refocus the debate on substantive human rights issues. They will also enhance the efficiency of these mechanisms and enable them to plan better. Thirty-three States have already extended such open or standing invitations to all the thematic mechanisms of the United Nations Commission on Human Rights, without distinction as to economic, social and cultural or civil and political rights.[4]

68. Structural prevention involves strengthening national capacity to address human rights violations. To enhance the national legal framework for human rights protection, I called on States to ratify international human rights treaties and to implement them at the national level. As of 30 August 2001, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, with only 126 States parties, remains the lowest ratified amongst the six core human rights treaties. It is followed by the International Covenant on Economic, Social and Cultural Rights, with 145 parties, the International Covenant on Civil and Political Rights, with 147 parties, the International Convention on the Elimination of All Forms of Racial Discrimination, with 158 parties, the Convention on the Elimination of All Forms of Discrimination against Women, with 168 parties, and the Convention of the Rights of the Child, with 191 parties. OHCHR has already engaged in efforts to modernize and strengthen the treaty body regime. Measures have been taken to address the backlog and delay in processing communications and the backlog has been substantially reduced.

69. OHCHR is implementing over 50 technical cooperation projects to help Governments, national institutions and NGOs to address human rights concerns more effectively. OHCHR is present in 26 countries. In addition, I am placing human rights regional advisory units within the United Nations offices in Addis Ababa, Abuja, Bangkok, Beirut, Pretoria and Santiago to assist Governments of those regions in the human rights field. OHCHR also continues to focus on human rights education; as well as integrating a rights-based approach to development.

70. On 23 April 2001, I addressed the Security Council during its discussion of the protection of civilians in armed conflict. I stressed that, throughout the world, civilians caught in armed conflict look to the United Nations to protect their rights as well as their needs. They expect the United Nations not only to provide them with emergency food and shelter, but also to protect them from further attacks on their lives, dignity and basic humanity. They expect the Organization to assist them when they are most vulnerable and insecure, to help them in returning to their homes and families, in bringing to justice those who are responsible for international crimes, in knowing the fate of their beloved ones, in burying their dead and in rebuilding their societies so that they can have the chance to live in peace. The insistence on the full implementation and enforcement of human rights and international human rights law will bring the United Nations closer to meeting those expectations.

71. An effective protection of civilians requires a commitment to tackling the issue of impunity at all stages of conflict. The Secretary-General's position that there can be no granting of amnesty to those who commit serious violations of international criminal law such as genocide, war crimes and crimes against humanity provides an essential guidance for the United Nations in this regard.[5] Ending impunity for genocide, war crimes and crimes against humanity, whether committed by State agents or non-State actors, is an important objective for the international community. The often ground-breaking jurisprudence of the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda provides an important impetus to the application of international law in this crucial area. The message that the international community will no longer tolerate impunity for acts that offend the conscience of humankind needs to be systematically and credibly dispatched. Attention by the principal organs of the United Nations to grave violations of humanitarian and human rights law can only serve as a deterrence to those who think that they can act with impunity. The establishment of the International Criminal Court will significantly enhance efforts in this regard. In this context, it is encouraging that, as of 31 August 2001, 37 States have become party to the Rome Statute of the International Criminal Court and 139 States have signed it. Even before the Court's establishment, the Statute has proved to be an invaluable tool in the struggle against impunity. The Statute codifies crimes against humanity for the first time in a multilateral treaty and it enumerates certain acts as war crimes when committed in non-international armed conflicts.

To encourage the fight against impunity, the General Assembly could consider pronouncing 17 July, the day of the adoption of the Rome Statute, as a day for international justice.

72. Another complementary means for the implementation of international criminal jurisdiction is the domestic application of the principle of universal jurisdiction. This principle is based on the notion that certain crimes are so harmful to international interests that States are entitled, and even obliged, to bring proceedings against the perpetrator, regardless of the location of the crime or the nationality of the perpetrator or the victim. Human rights abuses widely considered to be subject to universal jurisdiction include genocide, crimes against humanity, war crimes and torture. While the principle of universal jurisdiction has long existed for these crimes, it is rapidly evolving at the present time as a result of significant recent developments.

73. Truth and reconciliation efforts are also important components of an effective response to systematic violations of human rights law. These mechanisms should not however be a substitute for individual prosecution, but rather complementary mechanisms, intended to ensure comprehensive accountability and to promote the healing of torn societies. In Sierra Leone, for instance, OHCHR is preparing the establishment of the Truth and Reconciliation Commission, clarifying the relationship between the Commission and the planned Court, seeking appropriate solutions in the area of juvenile justice and empowering NGOs.

74. The focus of the International Women's Day in 2001 was "Women and Peace". This was a most appropriate topic. Not only are girls and women too frequently tragic victims in conflicts, but their role as peacemakers and conflict-preventers is often underestimated or swept aside. The international community should recognize and encourage the rich contribution that women have to make to the peace process.

C. Permanent Forum on Indigenous Issues

75. The goal of the International Decade of the World's Indigenous People (1995-2004) is to strengthen international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health. In my capacity as coordinator of the Decade, I have encouraged the departments, funds and agencies of the United Nations system responsible for development-related and operational activities to strengthen their programmes for indigenous peoples.

76. I devoted a significant part of my report to the Economic and Social Council at its substantive session of 2001 to the rights of indigenous peoples (E/2001/64). The situation of the more than 300 million indigenous people continues to cause serious concern. Although progress has been made in some countries in recent years, indigenous peoples continue to experience exclusion, discrimination and marginalization. They are often ill-served by education, health, housing and other public services. In some countries, indigenous people are negatively affected by national development plans, which displace them from their traditional lands and territories, sometimes with negligible compensation, or none at all.

77. For many years, indigenous peoples groups have discussed the need for a permanent forum for indigenous peoples at the meetings of the Working Group on Indigenous Populations of the Commission on Human Rights. They have suggested that a permanent forum could play a role in ensuring the full participation of indigenous peoples in international decision-making affecting them; supervising the implementation of indigenous peoples rights; enforcing treaties and other agreements with States; resolving disputes and providing remedies for violations of indigenous peoples rights; and coordinating activities across the United Nations system on the basis of full consultation and collaboration with indigenous peoples.

78. A significant step was taken last year when the Economic and Social Council, by its resolution 2000/22, established the Permanent Forum on Indigenous Issues. The Permanent Forum, which will serve as an advisory body to the Council, has a number of original features within the United Nations system and has an unusual holistic role. It aims at harmonizing a range of issues dealt with by the United Nations through separate institutional processes, including human rights, development, the environment, cultural and social issues, health, and education, in order to bring benefits to indigenous communities. It provides a significant opportunity not only for mainstreaming indigenous peoples issues more effectively into the

organization's operational work but also for encouraging cross-sectoral programmes.

79. The Forum is expected to provide advice and recommendations on indigenous issues to the Economic and Social Council, as well as through the Council to programmes, funds and agencies of the United Nations; to raise awareness and promote the integration and coordination of activities relating to indigenous issues within the United Nations system; and to prepare and disseminate information on indigenous issues. It will be comprised of 16 independent experts, eight to be nominated by Governments and eight appointed by the President of the Council following formal consultations with Governments on the basis of consultations with indigenous organizations. The members of the Forum will be designated by 15 December 2001. The Forum is authorized to meet for 10 days each year and will hold its first session from 6 to 17 May 2002. The Secretary-General has designated OHCHR as the lead agency for the implementation of Council resolution 2000/22.

80. OHCHR has held consultations with indigenous peoples and Governments and within the United Nations system. In particular, it has organized two informal briefings between groups of indigenous peoples and the Senior Vice-President of the Economic and Social Council on 22 and 25 July 2001. Most of the discussion related to the process of selection of indigenous members of the Forum, the secretariat preparations and the venue and placement of the Forum and secretariat. OHCHR also held informal consultations with indigenous peoples during the nineteenth session of the Working Group on Indigenous Populations, which took place in the context of the fifty-third session of the Subcommission on the Promotion and Protection of Human Rights.

81. Additionally, in 2001, the Commission on Human Rights made particular advances to protect the human rights of indigenous peoples by establishing a new mechanism. A Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people was appointed for a period of three years. The Special Rapporteur will gather, request, receive and exchange information and communications from all relevant sources, including Governments, indigenous people themselves and their communities and organizations, on violations of their human rights and fundamental freedoms. This is a particularly appropriate step in view of the General Assembly's emphasis on enhancing the rights of vulnerable groups, as expressed in the Millennium Declaration and by the designation of the years from 1995 to 2004 as the International Decade of the World's Indigenous People.

D. Human rights and HIV/AIDS

82. HIV/AIDS continues to have a devastating impact around the world. By the end of 2000, there were 21.8 million AIDS-related deaths, including 4.3 million children and 9 million women. Over 36 million people are currently infected with the HIV virus, with 5.3 million new infections reported last year alone.[6] The epidemic has become one of the greatest challenges facing the international community today.

83. A lack of respect for human rights is linked to virtually every aspect of the HIV/AIDS epidemic, from the factors that cause or increase vulnerability to HIV infection, to discrimination based on stigma attached to people living with HIV/AIDS, to the factors that limit the ability of individuals and communities to respond effectively to the epidemic. Certain individuals are more vulnerable to contracting the HIV virus because they are denied the right to freedom of association and freedom of information and are precluded from discussing issues related to HIV/AIDS, participating in AIDS-service organizations and self-help groups and from taking other preventive measures to protect themselves from HIV infection. Women, particularly young women, are more vulnerable to infection if they lack access to the information, education and services necessary to ensure sexual and reproductive health and prevention of infection. People living in poverty are unable to access HIV care and treatment, including antiretrovirals and other medications for opportunistic infections. Stigmatization of and discrimination against those with presumed or known HIV/AIDS status may obstruct their access to treatment and may affect their employment, housing and other rights. There is growing evidence that when individuals and communities are able to realize their rights the incidence and impact of HIV and AIDS is reduced. The promotion and protection of human rights therefore is a key to effectively containing the spread of the disease, reducing the vulnerability to HIV infection and alleviating the impact of the epidemic.

84. The international community has now recognized, in various forums, including the Commission on Human Rights, the special session of the General

Assembly on HIV/AIDS and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, that the realization of human rights is an essential part of the global response to the pandemic. The Security Council has stressed the importance of incorporating HIV/AIDS prevention and awareness skills in the training of peacekeeping personnel. Ongoing efforts to ensure greater access by people living with HIV/AIDS to affordable medicines and therapies as well as the contributions being pledged by Governments and the private sector to the Global AIDS and Health Fund reflect a growing commitment to this matter. These are important steps towards the promotion and protection of respect for all human rights in the context of HIV/AIDS. The challenge ahead is to build upon these achievements and ensure that the commitments by States are put into practice, in accordance with international human rights principles and law.

85. At its fifty-seventh session, the Commission on Human Rights adopted resolution 2001/51 requesting States, United Nations organs, programmes and the specialized agencies, international and non-governmental organizations and national human rights institutions to take all necessary measures for the protection of the human rights of persons infected and affected by HIV/AIDS, including by ensuring that their laws, policies and practices respect human rights in the context of HIV/AIDS. The Commission also adopted resolution 2001/33 on access to medication in the context of pandemics such as HIV/AIDS, recognizing that access to medication is a fundamental element of the right to the highest attainable standard of mental and physical health. These resolutions present States with a valuable opportunity to share their experiences and to learn from others best practices on how best to proceed in the field of HIV/AIDS and human rights. The Secretary-General will report to the Commission on the views submitted to him by Governments, United Nations bodies and international and non-governmental organizations regarding the steps they have taken.

86. At the General Assembly's historic twenty-sixth special session on HIV/AIDS, the first session of the Assembly dedicated to a health issue, Member States agreed on a framework for an effective international response to the epidemic. At the special session, I urged Governments to base their commitment to combating the pandemic on international human rights law and principles by strengthening respect for the rights of people infected with, affected by or vulnerable to HIV infection, as well as the rights of the individuals and communities responding to the epidemic; enhancing State responsibility; monitoring violations of human rights in the context of HIV/AIDS; and strengthening redress mechanisms. The Declaration of Commitment adopted at the special session (resolution S-26/2) reflects the recognition that the realization of human rights is essential to the global response to HIV/AIDS. States agreed on the need to address the factors that make individuals particularly vulnerable to HIV infection, including poverty, lack of education, discrimination, lack of information and/or commodities for self-protection and the sexual exploitation of women, girls and boys, including for commercial reasons. This Declaration of Commitment must now be put into practice.

87. At the special session I participated in the round table on HIV/AIDS and human rights. The round-table discussions demonstrated broad agreement that respect for human rights is vital to preventing the further spread of the epidemic, ensuring vulnerable groups are reached, reducing stigma and discrimination and addressing the factors underpinning the spread and impact of the virus. At the round table, I urged States to take the lead by recognizing the link between respect for all human rights and an effective international response and by leading open and inclusive discussions on the difficult issues surrounding HIV/AIDS, including sexuality and sex education. I encouraged them to make use of the International Guidelines on HIV/AIDS and Human Rights and to adapt them, through a dialogue with those most affected, to suit the priorities of the AIDS situation in their countries. I urged them to recognize and address the needs of vulnerable groups, including men who have sex with men, injecting drug users and women and men in prostitution, as well as of the individuals and communities responding to the epidemic. Addressing the particular vulnerability of such groups is essential to reducing the spread and impact of HIV/AIDS, not only on these groups, but also on all individuals and communities.

88. The work plan and tools necessary for States to put these commitments into practice now exist. The Declaration of Commitment contains measurable goals and targets for States and calls on States to enact, strengthen or enforce, as appropriate, legislative and other measures, within specific periods of time, to

eliminate discrimination against and ensure the full enjoyment of all human rights and fundamental freedoms by people living with HIV/AIDS as well as by members of vulnerable groups. It stresses the need for national strategies leading to the empowerment of women and calls for the strengthening of monitoring mechanisms to protect the human rights of individuals infected or affected by HIV/AIDS. The International Guidelines on HIV/AIDS and Human Rights synthesize existing human rights norms relevant to HIV/AIDS and incorporate these into concrete measures to protect human rights where HIV/AIDS is concerned. The Guidelines provide States with an important tool to use in designing, coordinating and implementing practical and effective national HIV/AIDS policies and strategies and offer assistance, not just for people living with HIV, but also for society in general. My Office continues to urge Governments, national human rights institutions, NGOs and people living with HIV and AIDS to use the Guidelines for the purposes of training, policy-formulation, the development of legislation and advocacy in the field of HIV/AIDS and human rights.

89. The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance provided a unique opportunity to follow up on the commitments made at the twenty-sixth special session. The Conference addressed the complex relationship between HIV/AIDS and stigma, discrimination, racism and related intolerance, an issue that will require further consideration and action. The Durban Declaration adopted by Member States at the World Conference expresses deep concern over the fact that many people infected with or affected by HIV/AIDS, as well as those presumed to be infected, belong to groups vulnerable to racism, racial discrimination, xenophobia and related intolerance. States recognized that this has had a negative impact and has impeded access to health care and medication. In the Programme of Action adopted at the World Conference, States undertook the strengthening of national institutions to promote and protect the human rights of victims of racism who are also infected with HIV/AIDS, as well as ensuring access to HIV/AIDS medication and treatment. OHCHR organized a panel event, in collaboration with the Joint United Nations Programme on HIV/AIDS (UNAIDS) and the World Health Organization (WHO), to explore the relationship between multiple forms of racism and discrimination as determinants of and responses to the HIV/AIDS epidemic; poverty, race and HIV/AIDS; gender inequality, race and HIV/AIDS; and lessons learned from experiences in Uganda and India. The discussions highlighted the need for a greater understanding of the impact of multiple forms of HIV/AIDS-related discrimination and action to be taken to counteract them. OHCHR, in partnership with UNAIDS and the Committee on the Elimination of Racial Discrimination, will further consider the relationship between HIV/AIDS and stigma, discrimination and racism in its future activities.

90. Ensuring effective follow-up to these developments will require the integration of the issue of HIV/AIDS and human rights into institutional strategies and programmes at all levels, including the United Nations human rights bodies and national human rights institutions. The United Nations human rights mechanisms, through their consideration of States reports, concluding observations and recommendations and general comments, are able to provide States with direction and assistance in the implementation of rights for those infected and affected by HIV/AIDS.

E. Human rights, development and poverty reduction

91. In the Millennium Declaration of the General Assembly (resolution 55/2), heads of State and Government recognized the integral link between the realization of the right to development and poverty reduction and pledged to eradicate poverty through decisive national action and international cooperation. In some parts of the world, the incidence of poverty has increased in the past few years, not because the world as a whole is getting poorer, but because the benefits of growth as a result of globalization have been unevenly spread. In this particular context, a consensus has emerged recognizing the importance of human rights, including the realization of the right to development and the promotion of a rights-based approach, as a prerequisite for effectively combating poverty. The challenge remains to link the international development targets, as identified by various international conferences and the Millennium Declaration goals with United Nations human rights activities, in particular regarding the goal of poverty reduction.

92. The Commission on Human Rights has increasingly paid attention to the issue of poverty. In their reports to the fifty-seventh session of the Commission on Human Rights, both the independent expert on the right to development (E/CN.4/2001/WG.18/2) and the independent expert on human rights and extreme poverty (E/CN.4/2001/54 and Corr.1 and E/CN.4/2001/54/Add.1 and Corr.1) underlined the strong relationship between the realization of the right to development and poverty eradication. During the last session of the Open-Ended Working Group on the Right to Development, the need for international solidarity and cooperation for the realization of the right to development was emphasized as a complement to national efforts in that regard, with particular attention to meeting international development targets, including those relating to poverty eradication (E/CN.4/2001/26, para. 191). OHCHR provides substantive and organizational support to the Open-Ended Working Group, the independent expert on the right to development and the independent expert on human rights and extreme poverty, as well as to the various other development-related mechanisms of the Commission on Human Rights.

93. In February 2001, OHCHR organized an expert seminar on human rights and poverty in Geneva. The seminar acknowledged the need for a new text, building on existing human rights norms and standards in a manner that explicitly addresses the phenomenon of poverty and, in particular, extreme poverty. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights make preambular reference to freedom from want, and the covenants provided for the right to an adequate standard of living, including adequate food, clothing and housing. But the term "poverty" was not used in any of the major texts: the Universal Declaration; the six main human rights treaties; and the Declaration on the Right to Development. The new text will make explicit linkages between human rights and poverty and will enhance the understanding of poverty and responses to it from the human rights perspective (E/CN.4/2001/54/Add.1 and Corr.1). The new text would identify people living in poverty as being vulnerable owing to the denial of their human rights. The seminar participants recognized that poverty is not just a lack of income but also an expression of social exclusion, in contrast to which participation, empowerment, security and non-discrimination play a crucial role. On the basis of the outcome of the expert seminar, the Commission in its resolution 2001/31 on extreme poverty, adopted at its fifty-seventh session, requested the Subcommission to consider the need to develop "guiding principles on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty". The Subcommission is currently considering the possible drafting of a working paper on the above-mentioned subject.

94. The concluding observations adopted by the Committee on Economic, Social and Cultural Rights take into account the question of poverty eradication. Economic, social and cultural rights are seen by the Committee to be a key vehicle by means of which economically and socially marginalized people, especially vulnerable groups, can lift themselves out of poverty and obtain the means to participate fully in their communities. In May 2001, the Committee on Economic, Social and Cultural Rights adopted a statement on poverty, in which, for the first time, a United Nations treaty body recognized that poverty "constitutes a denial of human rights". The Committee defined poverty as "a human condition characterized by the sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights" (E/C.12/2001/10, para. 8). The Committee, together with OHCHR, is also considering ways and means of integrating human rights into poverty reduction strategies, including the Poverty Reduction Strategy Papers. This is an important opportunity to operationalize rights-based approaches to development and poverty reduction on the ground.

95. At the inter-agency level, OHCHR is working to strengthen its cooperation for development and poverty eradication within the United Nations system and to provide support for facilitating integration of human rights into the programmes and policies of the development agencies and programmes of the system including, inter alia, through the ongoing work of the United Nations Development Group; the United Nations Development Framework/Common Country Assessment framework; and the Heavily Indebted Poor Countries Initiative.

F. Trafficking in human persons

96. Human trafficking is an abusive form of migration. Each year, an unknown number of individuals, many of them women and children, are tricked, sold, coerced or otherwise forced into situations of exploitation from which they cannot escape. Trafficking and related practices such as debt bondage, forced prostitution and forced labour are violations of the most basic of all human rights, including the right to dignity and security of the person, the right to just and favourable conditions of work, the right to health and the right to equality.

97. States are obliged to protect the core rights of all persons present within their territory — irrespective of the legal status of that presence. In the case of trafficked persons, there is increasing recognition of the existence and relevance of certain additional obligations. It is clear, for example, that victims of human rights violations such as trafficking have an international legal right to access to adequate and appropriate remedies. States should facilitate access to such remedies by, inter alia, providing information to victims of trafficking concerning the possibility of obtaining remedies, including compensation for trafficking and other criminal acts to which they may have been subject, and by rendering legal and other assistance to victims to enable them to obtain the remedies to which they are entitled. In addition, States should ensure the physical safety of the victims within their territory and provide basic measures for the physical and psychological recovery of victims of trafficking. It is particularly important that victims of trafficking are protected from prosecution for the illegality of their coerced entry or residence or for the coerced activities they perform as a consequence of their status as trafficked persons. As far as possible, they should also be provided with the opportunity of safe return.

98. The problem of trafficking in children is a distinct one, requiring separate attention. The starting point for consideration of this issue must be that children have special rights under international law; that child victims of trafficking have special needs that must be recognized and met by States; that States are obliged to take measures to prevent trafficking of children; and that, in dealing with child victims of trafficking, the best interests of the child (including the right to physical and psychological recovery and social integration) must at all times be paramount. It is also important to ensure that the trafficked child is not criminalized in any way (for example, through prosecution for status-related offences) and that sensitive and appropriate measures should be taken to reconcile the child with his/her family or to otherwise meet that child's best interests.

99. The adoption of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime of November 2000, filled an important legal gap and provided a major step forward in combating such trafficking. Good laws, strong law enforcement and improved cooperation between States will, individually and collectively, help to prevent trafficking. Additional prevention strategies, developed on the basis of an understanding of the motivations behind trafficking and smuggling are also necessary. The underlying factors that force individuals to seek and accept dangerous and illegal migration arrangements, including inequalities within and between countries, discrimination and corruption, should be addressed. The demand side of the equation must also be acknowledged. The growth in trafficking reflects not just an increase in "push" factors, but also the strong pull of unmet labour demands, particularly in the informal sector. The role of countries of destination in nurturing an exploding global sex industry, which disempowers women and denies them their basic rights, cannot be ignored. Failure to come to terms with these (admittedly more difficult) issues will prevent otherwise laudable anti-trafficking efforts from achieving any significant success.

100. The connection between human rights and practices such as trafficking makes it especially important for the United Nations to take up this issue with full force and vigour. The United Nations has a special responsibility to ensure that the issue of trafficking is not seen only as a problem of migration, a problem of public order or a problem of organized crime. These perspectives are of course valid and important. However in developing realistic and durable solutions we must be prepared to look further to the rights and the needs of the individuals involved.

101. In my own work on trafficking, I have focused particular attention on legal and policy issues — thereby seeking to exert a positive influence over the direction and substance of the trafficking debate. Since

1999, for example, OHCHR has worked closely with States and partner organizations in strengthening the human rights aspects of key international agreements such as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime[8] as well as the draft framework decision on trafficking, scheduled to be adopted by the European Union in September 2001. In an attempt to improve inter-agency cooperation on this issue, particularly at the level of law and policy, OHCHR, in collaboration with a number of other organizations, including ILO, UNHCR and the International Organization for Migration (IOM), established an Intergovernmental Organization Contact Group on Human Trafficking and Migrant Smuggling in March 2001. The Contact Group, which is currently led by OHCHR, meets regularly in Geneva to exchange information and implement joint initiatives. At the field level, and in Bosnia and Herzegovina in particular, OHCHR is currently involved in the training of a special anti-trafficking task force recently established by the United Nations Mission in Bosnia and Herzegovina (UNMIBH). OHCHR also works with the Government of Bosnia and Herzegovina in developing its own action plan to combat trafficking through strengthened laws and institutions.

102. In the coming 12 months, I will seek to consolidate and extend these achievements. Of particular importance will be the development of the principles and guidelines on human rights and human trafficking. It is my hope that the principles and guidelines will become a practical tool for States as well as for intergovernmental and non-governmental organizations in their efforts to ensure the integration of a human rights perspective into national, regional and international anti-trafficking initiatives.

G. Business and human rights

103. Under the leadership of the Secretary-General and in the context of the Global Compact, I have increasingly devoted attention to engaging the business community in a dialogue regarding corporate responsibility in the area of human rights. In his report to the Millennium Summit (A/54/2000), the Secretary-General made the case for this engagement and stressed that the marks of good corporate citizenship exhibit one common feature: "the willingness by firms ... to pursue 'good practices' as defined by the broader community, rather than taking advantage of the weaker regulatory systems or unequal bargaining positions of host countries".

104. In the field of human rights, efforts to identify good practices by companies have raised complex issues. While few would disagree that businesses are responsible for the safety and well-being of their employees, the definition of good business practices beyond the workforce is still under discussion. Questions that arise include: how to ensure the accountability of corporations that assist in the commission of human rights abuses by others; what is the responsibility of a business with operations in a country where human rights violations are widespread or where company revenues help support an oppressive regime; are corporations expected to use their influence to encourage government policies that respect human rights and the rule of law; and how business can play an appropriate role in conflict prevention and removing obstacles to the right to development. In charting the way forward, both in the broad terms of corporate citizenship and the more specific area of human rights accountability, both dialogue and innovative approaches are clearly needed if we are to find solutions to these problems.

105. Regarding the Global Compact, OHCHR has focused its involvement over the past year on the Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the role of business in zones of conflict. I appealed to the business sector, the trade union movement and other Global Compact partners to participate in the World Conference and I also encouraged the gathering of best practices on addressing racism and discrimination in the workplace, building public support for the World Conference and developing plans for events during the Conference and in the post-Durban phase. A high-level Global Compact event, with the participation of the Secretary-General and myself, took place on the opening day of the World Conference. Participants highlighted their commitments to fostering diversity and combating discrimination both in the workplace and the wider community.

106. OHCHR has also focused on the different responsibilities of businesses operating in conflict zones. I participated in a panel discussion at the 2001

World Economic Forum devoted to the theme and addressed the issue in my statement to the Security Council in April 2001 concerning the report of the Secretary-General on protection of civilians in armed conflict.[5] I pointed out that corporations are key actors, not only in promoting socio-economic development in post-conflict situations, but also in preventing and resolving conflict by avoiding involvement in violations, taking a firm stand for human rights and speaking out against human rights violators. OHCHR hosted a Global Compact dialogue on this issue in September 2001.

107. OHCHR is also leading efforts to better define the boundaries of corporate complicity in human rights abuses in the context of the Global Compact principles and the Secretary-General's Guidelines on Cooperation between the United Nations and the Business Community.[9] When the Secretary-General first proposed the Global Compact in January 1999, he asked world business leaders to: support and respect the protection of international human rights within their sphere of influence; and to make sure their own corporations are not complicit in human rights abuses. An increasing number of business leaders are responding to the Secretary-General's challenge by accepting to take on greater responsibility in the human rights field.

108. I would not underestimate the difficulties of categorizing the different meanings of complicity in the business context. Complicity is not a static concept. The contemporary limits of what is meant by complicity tell us a lot about our sense of community and responsibility towards others. In order to help define the responsibilities of business, I have suggested there are different degrees or types of complicity in this context: direct, beneficial and silent complicity.

109. A corporation that knowingly assists a State in violating principles of international law contained in the Universal Declaration of Human Rights could be viewed as directly complicit in such a violation. For example, a company that promoted, or assisted with, the forced relocation of people in circumstances that would constitute a violation of international human rights could be considered directly complicit in the violation. The corporation could be responsible if it or its agents knew of the likely effects of their assistance.

110. The notion of corporate complicity in human rights abuses is not confined to direct involvement in the execution of illegal acts by other parties. The complicity concept has also been used to describe the corporate position vis-à-vis government or rebel violations when business benefits from human rights abuses committed by another entity. Violations committed by security forces, such as the suppression of peaceful protest against business activities or the use of repressive measures while guarding company facilities, are often cited as examples of corporate complicity in human rights abuses. Where human rights violations occur in the context of a business operation, the business in question need not necessarily cause the violations for it to become implicated in the abuses.

111. The notion of silent complicity reflects the contemporary expectation that companies should raise systematic or continuous human rights abuses with the appropriate authorities. Indeed, it reflects the growing acceptance within companies that there is something culpable about failing to exercise influence in such circumstances. Whether or not such silent complicity would give rise to a finding of a breach of a strict legal obligation against a company in a court of law, it has become increasingly clear that the moral dimension of corporate action (or inaction) has taken on significant importance.

112. While early indications provide hope that initiatives such as the Global Compact can help to build consensus and reach practical solutions to difficult issues, it is important to make clear that such initiatives do not imply that the role of government in ensuring respect for human rights has become less important. The United Nations maintains the clear view that, despite the increased influence of the private sector, primary responsibility for the promotion and protection of human rights remains with Governments. Voluntary initiatives are no substitute for government action. At the same time, it must be stressed that those corporations should be aware of, and responsible for, the impact of their activities in the communities where they operate. Furthermore, they are accountable for any of their own acts that lead to human rights abuses.

113. This is why I draw attention to the importance of different parts of the United Nations human rights system addressing the role of the business sector as part of their ongoing work to protect human rights. For example, a growing number of Special Rapporteurs and Independent Experts appointed by the Commission on Human Rights to study specific human rights issues

around the world have sought to enhance cooperation and contact with the business sector in the course of their work. Within the Subcommission on the Promotion and Protection of Human Rights, a working group in is in the process of drafting relevant norms concerning human rights and transnational corporations and other economic units that have an impact on human rights.

114. In charting the way forward on the issue of human rights, it is clear that different actors have different roles to play. For example, within businesses the views of individuals are crucial in implementing company policies, and thus the role of education and training on human rights in business will become more critical. The field of business ethics has traditionally been the preserve of philosophers, who have focused on the role of the individual within the organization. It is, however, now clear that wider social and political issues will increasingly need to be part of business school courses on risk analysis, organizational behaviour and strategic management.

115. There is growing consensus on what companies can do within their own operations that are central to making further progress. Concrete steps include carrying out pre-emptive human rights assessments to identify the risks of involvement in human rights abuses and the potential impact of a company's operations on the ground; adopting explicit policies to protect the human rights of employees and workers in the supply chain; ensuring that security arrangements, whether a company's own, or supplied by the host State, do not contribute to human rights violations; and establishing a monitoring system to ensure that a company's human rights policies are actually being implemented. These procedural policy issues are all increasingly seen as crucial steps that companies should take as responsible corporate actors.

116. At the international level, difficult challenges remain for the United Nations as it develops its engagement with the private sector. The corporate world is more and more interested in introducing a human rights dimension into the presentation of its activities as well as into its policies and practices. Simultaneously, there is increasing attention from the human rights community to the behaviour of companies in instances where they are seen to contribute to violations of human rights or even where they remain indifferent. The challenge for the United Nations will be to ensure that its own work can straddle a two-track approach of dialogue and partnership with the private sector on the one hand, along with monitoring and ensuring compliance with human rights standards on the other. This balancing act has to be executed without compromising the work undertaken on either track or indeed the credibility of the Organization.

H. Human rights and bioethics

117. The issue of scientific and technological developments and their impact on human rights is also receiving greater attention. Advances in genetic sciences, the deciphering of the human genome and related advances in technology and research are making it possible to identify and treat a wide range of diseases and illnesses through genetic screening, testing and gene therapy. But this genetic revolution has also raised difficult human rights questions involving issues such as privacy, disclosure of genetic information, freedom of reproductive choice and genetic discrimination resulting from the inappropriate use of genetic data. There is a need to ensure that these developments do not violate fundamental human rights and the human dignity inherent in every individual.

118. The General Assembly, the Commission on Human Rights, and the Subcommission on the Promotion and Protection of Human Rights have all considered the issue, taking as their point of reference the 1997 Universal Declaration on the Human Genome and Human Rights,[10] which was endorsed by the General Assembly in its resolution 53/152 of 9 December 1998. Article 1 of the Declaration states the principle that the human genome underlies the fundamental unity of all members of the human family, as well as the recognition of their inherent dignity and diversity. Article 10 of the Declaration affirms that no research or research applications concerning the human genome, in particular in the fields of biology, genetics and medicine, should prevail over respect for the human rights, fundamental freedoms and human dignity of individuals or, where applicable, of groups of people. Article 11 prohibits practices that are contrary to human dignity, such as reproductive cloning of human beings.

119. At its fifty-seventh session, the Commission invited the United Nations bodies and the specialized agencies concerned to report to the Secretary-General on the activities conducted in their respective areas to

ensure that the principles set forth in the Universal Declaration are taken into account. It also requested the Secretary-General to draw up proposals, on the basis of the contributions by United Nations bodies and the specialized agencies, concerning ways of ensuring the proper coordination of activities and thinking on bioethics throughout the United Nations system and to consider establishing a working group of independent experts from, inter alia, UNESCO, WHO and the World Intellectual Property Organization (WIPO), which would reflect on the possible follow-up to the Universal Declaration on the Human Genome and Human Rights. I was invited to pay all due attention to this question within my area of competence.

120. On 26 July 2001, at its substantive session, the Economic and Social Council adopted resolution 2001/39 on genetic privacy and non-discrimination, in which it urged States to ensure that no one shall be subjected to discrimination based on genetic characteristics. It further urged States to take measures, including through legislation, to prevent the use of genetic information and testing leading to discrimination or exclusion against individuals, particularly in social, medical or employment-related areas, whether in the public or the private sector.

121. At its 25th meeting, on 15 August 2001, the Subcommission on the Promotion and Protection of Human Rights requested one of its experts to prepare a working paper on the Universal Declaration on the Human Genome and Human Rights.

122. In the light of these developments, OHCHR is planning to organize an expert consultation to discuss the implementation of the Universal Declaration on the Human Genome and Human Rights. In addition, my Office is engaged in consultations with other United Nations bodies and the specialized agencies to improve coordination on activities concerning human rights and bioethics.

I. United Nations General Assembly special session on children

123. OHCHR is preparing for the General Assembly special session on children, which will assess progress made on the achievement of the goals set by the 1990 World Summit for Children. The adoption of the Convention on the Rights of the Child, after years of intergovernmental negotiations, marked the beginning of a gradual process bringing to light a new vision of childhood. The unprecedented and broad consensus leading to nearly universal ratification of the Convention requires further reassessment of the place of children in society, by conferring upon them the dignity and status of fundamental rights and freedoms. Children are now perceived not solely as vulnerable beings in need of specific protection measures, but also as persons entitled to the enjoyment of the full range of human rights, including the right to participate in decisions affecting them within the family, school and larger community environment.

124. The special session on children will provide a powerful reminder of the growing recognition of the place of human rights at the heart of all international endeavours. A focus on the rights of children will have to continue being integrated as a priority in United Nations system-wide action in all fields, as well as in action by States, civil society and the private sector. The special session will provide the international community with the opportunity to renew its commitment to the adoption of a rights-based approach to programmes and activities for children. It will also show how much progress still remains to be achieved.

125. Implementation of international standards through national processes remains absolutely essential. The last decade has witnessed efforts to develop legislative reform; national plans of action for children; child impact assessment; and budgets for children. Independent offices have been set up to promote children's interests. Increasingly, national human rights institutions play a role alongside the Committee on the Rights of the Child in monitoring, not only the implementation of the Convention, but also of other international commitments, including those to be adopted by the special session on children and by other recent major international meetings.

126. Recognition of children's rights as legal obligations, as embodied in the international treaties that States have ratified, calls for mechanisms to ensure accountability for their implementation. In the future, greater attention will be needed to providing remedies for the victims of violations at the national level, through the use of courts capable of implementing adequate legislation, well-trained professionals and mechanisms to ensure national monitoring, equipped with the capacity to request remedial action, including for individual complaints. At the international level, increased support and accountability will be needed for

the reporting obligations of States, as defined by article 44 of the Convention on the Rights of the Child and by relevant provisions of other international instruments. International reporting must be an opportunity for individual States to examine and evaluate progress made and changes needed for the further implementation of the human rights of children. Increased efforts have to be made to follow up at the national and international levels on the recommendations formulated upon the examination of State reports.

127. The United Nations Decade for Human Rights Education has been proclaimed for the years 1995 to 2004. Efforts must increase over the remaining years to ensure that children, parents and local communities are empowered to participate actively in the defence of their own rights. In the follow-up to the special session on children, renewed emphasis must be given to human rights education as a learning and participatory process by which all can grow to understand our common responsibility to make human rights a reality in the daily lives of children. Human rights must be more systematically integrated into education curricula at all levels. Effective public education campaigns should continue to be carried out. Providing appropriate and multidisciplinary training on international human rights and child rights standards to all professionals working for and with children must become a greater priority.

128. Resource limitations sometimes constrain the implementation of economic, social and cultural rights, yet they cannot justify discrimination in the allocation of available resources. The Convention on the Rights of the Child, the General Assembly special session on children and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance all help to focus attention on the crucial dimensions of the general principle of non-discrimination. It is hoped that the special session on children will emphasize that girls continue to be disproportionately victims of legal discrimination and of disparities limiting their enjoyment of the right to health or education. Boys can also face the discriminatory impact of inappropriate socialization into rigid gender roles, which can limit their enjoyment of the right to education or produce disproportionate rates of infringement of penal laws. As the HIV/AIDS pandemic has shown, more sophisticated efforts to analyse and address gender discrimination can often be one of the most effective strategies for improving enjoyment of most human rights by both girls and boys. To make effective progress in reducing gender discrimination, the international community and individual States must link implementation of the rights of children to that of the further actions and initiatives to implement the Beijing Declaration and Platform for Action adopted by the twenty-third special session of the General Assembly.[11]

129. Articles 2 and 23 of the Convention on the Rights of the Child also help to bring into focus another growing challenge. Children with physical or mental disabilities have a right to enjoy a full and decent life, and to special care and assistance from the State to ensure dignity, promote self-reliance and facilitate the child's active participation in the community. However, few children with disabilities can be said to fully enjoy the rights to which they are entitled. In many cases, children with disabilities face discrimination that is not based on their need for special care and assistance, but on prejudice, misinformation and a traditional reluctance to acknowledge the right of such children to the fullest possible participation in society.

130. Existing international and national efforts to respect, protect and promote human rights must continue to seek ways to address the specific problems faced by children. Particular attention should be paid to relevant protection issues. Protecting children from all forms of violence and abuse will be a priority for the next few years, one that will often require new partnerships and approaches and increased consideration from existing human rights mechanisms. A special focus will also be needed to understand and promote the implications of the realization of the rights of children, in accordance with their evolving age and capacity, to enjoy the full range of civil and political rights enshrined by articles 12 to 17 of the Convention on the Rights of the Child. Defining and developing in more detail the concept of the child's right to express views and have them taken into account in decisions that affect her or him, as described by article 12, will be particularly important. The right of children to participate in society in accordance with their evolving age and capacity will have to be addressed at all levels, within the family and in schools, in workplaces or at community level, nationally and internationally.

131. A special effort is also needed to increase attention to the human rights of children alleged to, or recognized as, having infringed penal law. No State finds it easy to comply fully with articles 37 and 40

and with related provisions of the Convention, and some of the most basic standards set by international human rights law continue to be disregarded in practice. Much could be accomplished by seeking qualitative, rather than quantitative changes in State action. Modifying existing training programmes as well as changing the relevant legislation, in particular with regard to sentencing and use of detention, could produce significant improvements without requiring massive additional investment. The international expert workshop on juvenile justice to be held in 2002, at the initiative of the Coordination Panel on Technical Advice and Assistance in Juvenile Justice, will attempt to identify and address obstacles experienced and to increase the priority assigned to improving implementation of the human rights of children in this area.

132. Attention should also be drawn to the need to ratify and implement the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict[12] and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography,[13] adopted by the General Assembly on 25 May 2000. Concerning the involvement of children in armed conflict, the international community will face a challenge in ensuring respect for the higher standard for recruitment the Optional Protocol sets for non-State actors as well as on States. Efforts will also have to be focused on the need to ensure that children recruited into the armed forces below the age of 18 can be effectively protected from involvement in hostilities. The international community should continue to give attention to the protection of children from involvement in armed conflict and focus on the effective protection of civilian victims, as well as on preventing the recruitment of child soldiers. Efforts to promote and encourage ratification and effective implementation of the Optional Protocol to the Convention should be accompanied by attention to the need to ratify and implement effectively the provisions of other relevant treaties on humanitarian law, war crimes and disarmament.

133. Concerning the sale of children, child prostitution and child pornography, the challenge will be to ensure that increased efforts to criminalize and prosecute the perpetrators do not risk violating the rights of the child victims of such human rights violations. Addressing the human rights violations that children suffer as victims of sale or traffic for any purpose should include promoting ratification and implementation of the Optional Protocol. An important contribution will be made through the effective involvement and support for the second World Congress against Commercial Sexual Exploitation of Children, which is to be held in Yokohama, Japan, in December 2001, and for the implementation of its outcome.

IV. Final remarks

134. The General Assembly entrusted me with the challenging mandate of promoting and protecting all human rights. This report demonstrates the wide range of issues that my Office addressed at the international, regional, and national levels during 2001. In summing up the activities of OHCHR over the past year, two observations are pertinent:

(a) The first relates to the national dimension of human rights work. While international action is vital in bringing about collective vision, standards, coherence and respect for human rights, it is at the national level where action is most crucial. I have entered into dialogue with Governments, United Nations agencies, international organizations, and civil society to place human rights firmly on national agendas. In tackling the issues placed before it, OHCHR has been focusing on legal frameworks and concrete national policies, plans, programmes and institutions. The barometer for success of international action in the field of human rights lies in its ability to bring about real improvement in people's lives. My Office stands ready to assist States and civil society institutions in this regard;

(b) The other relates to the horrific terrorist attacks on the United States of America. There is no doubt that the international crisis following these acts has broad ramifications for future human rights work. Some priorities may appear at times to be conflicting. In this context, three principles should guide our approach: first, the need to eliminate discrimination and build a just and tolerant world that embraces the benefits of diversity within and among all nations is now more evident than ever; second, in the face of strong security concerns, all States must cooperate against terrorism, provided, however, that such actions are not used as a pretext to infringe on human rights; third, in such times of crisis, we must all strengthen the collective commitment to justice and the rule of law.

True respect for human life must go hand in hand with securing justice. The best tribute we can pay to the victims of terrorism and their grieving families and friends is to ensure that justice, and not revenge, is served.

Notes

[1] Several civilians were killed by military and paramilitary units in Gonaives in 1994.

[2] Report of the Secretary-General on prevention of armed conflict (A/55/985-S/2001/574).

[3] According to the Carnegie Commission on Preventing Deadly Conflict, cited in the Secretary-General's report on the prevention of armed conflict, operational prevention refers to measures taken to confront immediate crises, while structural prevention refers to measures that could be taken to ensure that crises do not take place in the first place or that they do not recur.

[4] These States are Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey, and United Kingdom of Great Britain and Northern Ireland.

[5] Report of the Secretary-General on the protection of civilians in armed conflict (S/2001/331).

[6] AIDS epidemic update: December 2000 (Joint United Nations Programme on HIV/AIDS (UNAIDS)-World Health Organization (WHO) 2000).

[7] See resolution 55/25, annex II.

[8] Ibid., annex I.

[9] http://www.un.org/partners/business/guide.htm.

[10] United Nations Educational, Scientific and Cultural Organization, *Records of the General Conference, Twenty-ninth Session*, vol. I, *Resolutions*, resolution 16.

[11] Resolution S-23/3, annex.

[12] Resolution 54/263, annex I.

[13] Ibid., annex II.

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